

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

SHANE UTLEY *et al.*,

Plaintiffs,

v.

Civ. No. 14-357 JCH/KK

BOARD OF COMMISSIONERS, SAN JUAN
COUNTY *et al.*,

Defendants.

**ORDER SETTING LOCATION OF DEFENDANT ANDERSON'S DEPOSITION,
EXTENDING EXPERT WITNESS DISCLOSURE DEADLINES,
AND SETTING STATUS CONFERENCE**

THIS MATTER came before the Court at a telephonic discovery status conference held at the parties' request on July 8, 2015. The Court, having heard the arguments of counsel and being otherwise fully advised, FINDS as follows.

From March through June 2015, Plaintiffs made good faith efforts to schedule the depositions of Defendant Ron Anderson and five other deponents. At the time, Defendant Anderson, like the five other deponents, resided in Farmington, New Mexico. Due to scheduling difficulties on both sides, the parties were unable to agree on mutually available dates for the depositions until the week of June 29, 2015. Upon reaching an agreement, Plaintiffs promptly noticed the depositions to take place on the mutually available dates of August 11 and 12, 2015, and August 24, 25, and 26, 2015 in Farmington, New Mexico. In particular, Plaintiffs noticed Defendant Anderson's deposition to take place on August 25, 2015 in Farmington.

On July 6, 2015, Defendants informed Plaintiffs that Defendant Anderson had just moved to Denver, Colorado, and that his deposition would need to take place there. Defendant Anderson and his counsel had known, when deposition dates were being negotiated, that

Defendant Anderson intended to move to Denver as soon as his house sold. However, they failed to inform Plaintiffs of Defendant Anderson's impending move or of the need to notice his deposition quickly to avoid having to depose him in Denver. Plaintiffs correctly observe that it would be very impracticable, it not actually impossible, for Plaintiffs' counsel to take the five depositions scheduled in Farmington on August 24 and 26, 2015 if he must travel to Denver to depose Defendant Anderson on August 25, 2015.

This Court "has great discretion in establishing the time and place of a deposition." *In re Standard Metals Corp.*, 817 F.2d 625, 628 (10th Cir. 1987). The Court is mindful that a defendant's deposition should generally be taken near where he lives. *O'Sullivan v. Rivera*, 229 F.R.D. 187, 189 (D.N.M. 2004). However, the Court finds that the exceptional circumstances set forth above make it unfair to require Plaintiffs to travel to Denver to take Defendant Anderson's deposition. To depose Defendant Anderson in Denver, Plaintiffs would, through no fault of their own, have to vacate and reschedule either Defendant Anderson's deposition or the five other depositions they have scheduled in Farmington. In light of the parties' protracted efforts to get these six depositions scheduled, such an outcome is unacceptable. Defendant Anderson, through counsel, should have informed Plaintiffs of his impending move to Denver as soon as possible after learning that Plaintiffs wished to depose him. He failed to do so, and the Court therefore finds that he and/or his counsel, and not Plaintiffs, should bear the expense and inconvenience that this failure has unfortunately caused.

IT IS THEREFORE ORDERED as follows:

1. Defendant Anderson shall appear in person in Farmington, New Mexico, on August 25, 2015, to be deposed at the time and place indicated by Plaintiffs' Notice of Deposition directed to him.

2. The parties' expert witness disclosure deadlines are hereby extended as follows. Plaintiffs shall make their expert witness disclosures by September 1, 2015, and Defendants shall make their expert witness disclosures by October 1, 2015.

3. A telephonic discovery status conference is hereby set for **Thursday, August 20, 2015 at 1:00 p.m.** Counsel are to call the Court's "Meet Me" conference line at (505) 348-2347 to connect to the proceedings.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Kirtan Khalsa". The signature is fluid and cursive, with the first name "Kirtan" and last name "Khalsa" clearly distinguishable.

KIRTAN KHALSA
UNITED STATES MAGISTRATE JUDGE